HCFA Clarifies Guidelines for Hospice Care in Skilled Nursing Facilities

The Hospice Association of America (HAA) has received notification of comprehensive new guidelines from the Health Care Financing Administration (HCFA) on providing hospice care in skilled nursing facilities (SNFs). The guidelines, reprinted here in their entirety, were sent from the Director of the Office of Survey and Certification at HCFA's central office to all of their regional bureaus. They have been made available to HAA for distribution among HAA members. HAA applauds HCFA's efforts in directly addressing the issues surrounding hospice care in SNFs and is grateful for the opportunity to assist in distributing the following information to ensure the quality of hospice care.

Plan of Care

"When a resident of a Medicare participating skilled nursing facility (SNF) or nursing facility (NF) elects the Medicare hospice benefit, the hospice and the SNF/NF must coordinate, establish, and agree upon one plan of care for both providers which reflects the hospice philosophy and is based on an assessment of the individual's needs and unique living situation in the SNF/NF. The plan of care must be written in accordance with 42 CFR 418.58, and include the individual's current medical, physical, psychosocial and spiritual needs. The hospice must designate a registered nurse from the hospice to coordinate the implementation of the plan of care (42 CFR 418.68(d)).

This coordinated single plan of care must identify the care and services which the SNF/NF and hospice will provide in order to be responsive to the unique needs of the patient/resident and his/her expressed desire for hospice care. The plan of care must include directives for managing pain and other uncomfortable symptoms and be revised and updated as necessary to reflect the individual's current status.

The SNF/NF and the hospice are equally responsible for the content of the single plan of care and for ensuring that it is implemented according to accepted professional standards of practice.

In addition, all covered hospice services must be available as necessary to meet the needs of the patient. Substantially all core services must be routinely provided directly by hospice employees and cannot be delegated to the SNF/NF (42 CFR 418.80). Drugs and supplies must be provided as needed for the palliation and management of the terminal illness and related conditions. Drugs must be furnished in accordance with accepted professional standards of practice (42 CFR 418.96).

The plan of care should reflect the participation of the hospice, SNF/NF, and the patient to the extent possible. The hospice and the SNF/NF must communicate with each other when any changes are made to the plan of care and each provider must be aware of the other's responsibilities in implementing the plan of care.

The surveyor should expect to see evidence of this coordination and single plan of care in the clinical records of both providers. All aspects of the plan of care should reflect the hospice philosophy.

Professional Management:

As with any patient, when the hospice accepts a nursing facility resident as a hospice patient, the hospice must assume full responsibility for the professional management of the hospice patient's care related to the terminal illness; ensure that all hospice services are provided in accordance with the plan of care at all times in all settings; make any arrangement necessary for inpatient care in a participating Medicare or Medicaid facility.

SNF/NF Requirements:

Even though the SNF/NF is the hospice patient's residence for purposes of the hospice benefit, the SNF/NF must still comply with all requirements for participation in Medicare or Medicaid. This means that the resident must be assessed using the information contained in the Resident Assessment Instrument (which includes both the Minimum Data Set and the Resident Assessment Protocols), have a plan of care, which in this case will be jointly developed with and agreed upon by the hospice, and be provided with all services contained in the plan of care. The plan of care must be consistent with the hospice philosophy of care.

SNF/NF Services:

The SNF/NF services must be consistent with the plan of care developed in coordination with the hospice. The hospice patient residing in a SNF/NF should not experience any lack of SNF/NF service or personal care because of his/her status as a hospice patient. The plan of care must include directives for managing pain and other uncomfortable symptoms and be revised and updated as necessary to reflect the individual's current status. The SNF/NF must offer the same services to its residents who have elected the hospice benefit as it furnishes to its residents who have not elected the hospice benefit. However, it must be remembered that the patient/resident has the right to refuse any services.

The professional services usually provided by the hospice to the patient in his/her home should continue to be provided by the hospice to the resident in a SNF/NF, or other place of residence. This includes furnishing any necessary medical services to those patients that the hospice would normally furnish to patients in their homes.

Core Services:

Substantially all hospice core services (physician services, nursing services, medical social services and counseling) must be routinely provided directly by hospice employees and cannot be delegated (42 CFR 418.80).

A hospice is considered to provide a service "directly" when the person providing the service for the hospice is a hospice employee. For the purpose of meeting 42 CFR

418.80, an individual who works for the hospice on an hourly or per-visit basis may be considered a hospice employee if the hospice is required to issue a form W-2 on his/her behalf.

Physician Services:

The hospice must provide physician services to the hospice patient. The patient's attending physician may continue to be involved in the care of the patient if this care is consistent with the plan of care and the expressed wishes of the patient.

Medical Social Services and Counseling:

Medical social services and counseling must be provided by hospice employees and cannot be delegated or contracted to SNF/NF personnel.

Nursing Services:

The hospice may not contract with the SNF/NF to provide the nursing services. However, the hospice may involve the SNF/NF nursing personnel in assisting with the administration of prescribed therapies included in the plan of care only to the extent that the hospice would routinely utilize the services of a hospice patient's family/caregiver in implementing the plan of care. (For example, SNF/NF staff who are permitted by the facility and by law may assist in the administration of medication as established by the plan of care developed by the hospice interdisciplinary group (IDG) in coordination with the SNF/NF.)

Attending Physician:

While the attending physician may participate in the development of the plan of care and provide care under it, the hospice IDG, the attending physician, and the patient will have to reach an agreement regarding treatment before services are provided. If a patient prefers the type of care proposed by the attending physician and the hospice's IDG proposes a different mode of care, the patient may revoke the hospice election and accept treatment from the physician outside the hospice benefit. Alternatively, the patient may choose to remain in the hospice benefit. Alternatively, the patient may choose to remain in the hospice program and refuse the suggestions of his/her attending physician.

Non-core Services:

The hospice may arrange to have some non-core hospice services provided by the SNF/NF if the hospice assumes professional management responsibility for these services and assures that these services are performed in accordance with the policies of the hospice and the patient's plan of care (42 CFR 418.56). In this situation, the key to surveying the adequacy of SNF/NF services for hospice patients is to review the assessment and note the implementation of the plan of care in conjunction with the facility's documented agreement with the hospice.

Medicaid Patients and the Hospice Benefits

When the beneficiary is also eligible for Medicaid and the facility is being paid for the beneficiary's NF care by Medicaid, the Medicare hospice benefit may be elected if the hospice and the facility have a written agreement under which the hospice takes full responsibility for the professional management of the individual's hospice care and the facility agrees to provide room and board to the individual. The hospice patient must remain in a Medicaid certified bed while residing in the NF.

In states that offer the Medicaid hospice benefit, if an individual is eligible for Medicare as well as Medicaid, the hospice benefit must be elected and revoked simultaneously under both programs. The state Medicaid agency pays the hospice the amount determined as payment for room and board while the patient is receiving hospice care, and the hospice pays the facility. Room and board services include: performing personal care services; assisting with activities of daily living; administering medication; socializing activities; maintaining the cleanliness of a resident's room; and supervising and assisting in the use of durable medical equipment and prescribed therapies.

Recertification:

The hospice is precluded by the regulation at 42 CFR 418.24(c) from involuntarily discharging a Medicare beneficiary from hospice care once the beneficiary is accepted for care. A hospice may not discharge a Medicare beneficiary at its discretion, even if the beneficiary's care promises to be costly or inconvenient. The election of the Medicare hospice benefit is the beneficiary's choice rather than the hospice's choice. A beneficiary whose circumstances cause him or her to desire a different type of care may choose at any time to revoke the hospice election. The only time that a hospice would be unable to recertify a Medicare beneficiary would be if the hospice finds that the beneficiary is no longer terminally ill, in which case the beneficiary would no longer be eligible for the hospice benefit. A hospice may also discharge a patient if he or she moves out of the hospice's service area.

HAA urges members to familiarize themselves with these guidelines and apply them when providing hospice care to nursing facility residents.

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